

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
DAVID LAWRENCE MONIX and ) CASE NO. 04-66312 JPK  
INGRID META MONIX, ) Chapter 13  
 )  
Debtors. )

ORDER ON DEBTOR'S [SIC] MOTION TO RE-OPEN  
BANKRUPTCY CASE ("MOTION")

The Motion was filed on January 31, 2009. The focus of the Motion is the debtors' "desire to re-open this Chapter 13 case in order to add an additional unsecured pre-petition creditor(s) which Debtors somehow failed to list and schedule". The record establishes that the debtors were issued a discharge order on March 26, 2008, and that the case was closed on March 26, 2008. In the court's view, there is no provision of the Bankruptcy Code which allows the court to extend the claim filing deadline established by Fed.R.Bankr.P. 3002(c) with respect to Chapter 13 cases. 11 U.S.C. § 1328(a), as applicable to this Chapter 13 case, provided for a discharge of debts only to the extent of those provided for by a plan; it is axiomatic that a creditor which did not receive notice of the debtor's Chapter 13 case was not provided for by the plan. The obvious intent of the Motion is to allow the addition of a creditor so that the debtors' indebtedness to that creditor can be deemed to be discharged by the Chapter 13 plan; the court knows of no authority which would allow this result. Given the foregoing, the court knows of no substantive basis upon which the apparent underlying intent of the Motion can be effective.

IT IS ORDERED that within 30 days of the date of entry of this order, the debtors shall file one of the following:

1. A legal memorandum which addresses the court's ability to re-open this Chapter 13 case for the purpose of adding a creditor omitted from the case originally with the result that

the debtors' indebtedness to that creditor can be affected by this Chapter 13 case; or

2. A withdrawal of the Motion.

Dated at Hammond, Indiana on February 12, 2009.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtors, Attorney for Debtors  
Trustee, US Trustee